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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,751	01/23/2004	James P. Gates	CTA447	5569
44088	7590	10/31/2005		
SEAN KAUFHOLD P. O. BOX 89626 SIOUX FALLS, SD 57109			EXAMINER NEWTON, JARED W	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 10/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/762,751	Applicant(s) GATES ET AL.	
	Examiner Jared W. Newton	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>01/23/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,045,104 to Peterson in view of U.S. Patent No. 5,727,700 to Digney.

In regard to claim 1, Peterson discloses a cabinet structure comprising a first rectangular shaped loop member defining a bottom support (comprised of members 22), a second rectangular shaped loop member defining an upper support (comprised of members 24), each of said upper and bottom supports having a top side and a bottom side (see FIG. 1); a plurality of elongated vertical supports 26 each having an upper end and a lower end; a plurality of couplers 32 being attached to each of said upper and bottom supports for removably coupling each of said upper ends to a bottom side of said upper support and said lower ends to said top side of said bottom support such that said upper support is spaced from and positioned over said bottom support (see FIG. 1).

In regard to claims 2 and 3, Peterson discloses each of said top and bottom supports including four corner members 18 and 20 and four elongated tubular connectors 24 and 22 having first and second ends, said connectors removably

Art Unit: 3634

coupling together adjacent ones of said corner members in a spaced relationship to each other (see FIG. 1).

In regard to claim 5, Peterson discloses couplers, or posts 32 attached to an associated one of said corner members 18 and 20 such that each of said corner members has one coupler positioned thereon (see FIG. 3).

In regard to claims 7, 8, and 9, Peterson discloses a plurality of wheels 16 being attached to said bottom side of said bottom support (comprised of members 22), said wheels positioned on one of said corner members 18 such that each of said corner members 18 of said bottom support has a wheel mounted thereon via corner base members 14.

Peterson does not disclose a cage including a horizontal wall and a perimeter wall being attached to and extending downwardly from said horizontal wall, said horizontal wall having a size and shape adapted for abutting said upper support such that said upper support is positioned within cage; and wherein helium filled balloons may be positioned in said cage such that said horizontal wall prevents the balloons from floating upwardly away from the frame. Digney discloses a balloon holder comprising a cage assembly 10 comprising a horizontal wall defined by retaining members 24 and 36; said cage assembly further comprising a perimeter wall as defined by grid members 22 (see FIGS. 1 and 2). Digney further shows said horizontal wall preventing balloons from floating upwardly when said balloons are positioned in said cage assembly. It would have been obvious to one of ordinary skill in the art at the time of the invention to cover the cabinet structure as disclosed by Peterson with the cage assembly as

Art Unit: 3634

disclosed by Digney so that said horizontal wall abuts said upper support as disclosed by Peterson. The motivation for covering said cabinet with said cage would be to provide a means of viewing items inside the cabinet when the removable upper panel as disclosed by Peterson is removed. Further motivation would be to prevent items such as helium-filled balloons from escaping said cabinet structure when said upper panel is removed.

Claims 4, 6, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over '104 to Peterson in view of '700 to Digney as applied to claims 1-3, 5, and 7-9 above, and further in view of U.S. Patent No. 2,839,320 to Hill.

Peterson in view of Digney discloses a cabinet comprising all of the limitations of claims 3 and 5, but does not disclose:

(a) Each of said corner members including a first female coupler and a second female coupler, said first and second female couplers being orientated generally perpendicular to each other, each of said first and second female couplers having a size and shape adapted for removably receiving one of said first or second ends of said connectors (claim 4);

(b) Each of said couplers comprising a female coupler having a size and shape adapted for receiving a respective one of said upper or lower ends (claim 6).

With respect to (a) and (b), Hill discloses a frame structure comprising corner members 11 including first and second female couplers oriented generally perpendicular to each other, each of said first and second couplers having a size and shape adapted for removably receiving pipe connectors 15; Hill further discloses each

Art Unit: 3634

of said couplers comprising a female coupler having a size and shape adapted for removably receiving vertical pipe connectors 15 upper and lower ends (see FIGS. 1 and 2). It would have been obvious to one of ordinary skill in the art at the time of the invention to construct the frame as disclosed by Peterson of the frame structure as disclosed by Hill. The motivation for said construction would be to make the connector members thinner, and therefore require less material. It is noted that it is well known in the art to use interconnecting connector members and coupling corner members in the construction of basic frames. The determination of whether said coupling members comprise female couplers (as disclosed by Hill) or male couplers (as disclosed by Peterson) is based simply on design preference, and either choice would be obvious to one of ordinary skill in the art.

With respect to claim 10, As set forth above, Peterson discloses the loop members, upper and bottom supports including four corner members and four elongated tubular connectors, a plurality of elongated vertical supports having upper and lower ends, couplers being attached to said upper and bottom supports and associated with corner members, and a plurality of wheels attached to said bottom connectors. Hill, as set forth above, discloses corner members including first and second female couplers being oriented perpendicular to each other and adapted to receive said pipe connectors, and couplers comprising a female coupler for receiving upper and lower ends of said pipe connectors. Digney, as further set forth above, discloses a cage with horizontal and perimeter walls, wherein helium filled balloons may

Art Unit: 3634

be positioned in said cage such that said horizontal wall prevents the balloons from floating upwardly away from the frame.

It would have been obvious to one of ordinary skill in the art at the time of the invention to include the coupler construction as disclosed by Hill *as well as the* cage structure as disclosed by Digney on the cabinet structure as disclosed by Peterson for reasons advanced above.

In regard to the recitation, "said cage having openings therein less than nine square inches" of claim 10, it is noted that the size of said opening is a design preference, and any size would have been obvious to one of ordinary skill in the art depending on the size of the balloons to be stored. As stated in the applicant's disclosure, "With respect to the above description then, it is to be realized that the optimum dimensional relationships for the parts of the invention, to include variations in size, materials, shape, form, function and manner of operation, assembly and use, are deemed readily apparent and obvious to one skilled in the art."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jared W. Newton whose telephone number is (571) 272-2952. The examiner can normally be reached on M-F 8-5.

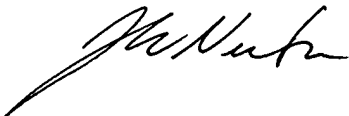
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3634

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JWN

October 18, 2005



RICHARD E. CHILCOT, JR.
SUPERVISORY PATENT EXAMINER